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EXAMINER

LUBY, MATTHEW D

ART UNIT PAPER NUMBER

3611

DATE MAILED: 08/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/877,188

Applicant(s)

PECTEAU ET AL.

Examiner

Matt Luby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-117 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-117 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 26-47, 50 and 110 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Admitted Prior Art, hereafter AAPA.

3. AAPA discloses a snowmobile (110) comprising a frame (Figure 1) having a straddle-type, singular seat (Figure 1), a front suspension being one of an A-arm suspension system and a trailing arm suspension system (Figure 1), first, second and third seat positions on a singular defined by the seat (e.g., a first spot and second spot on the seat), an engine (Figure 1), a drive track (120), a forward-most drive axle (144), two skis (116), and a steering device (e.g., the entire steering unit of 110) having a steering position (a spot on the steering device, 132) disposed forward of the forward-most drive track (see Figure 1), a steering shaft (136) wherein the first seat position is disposed about 565 mm behind the forward most drive axle, the second seat position is disposed behind the first seat position by about 290 or 340mm, the third seat position is disposed behind the second seat position by about 310 or 345 mm, the steering position is disposed forward of the forward-most drive axle by about 65mm and the frame is between 1493 and 1913 mm long (see Figures 1 and Figure 8 describing various

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measured distances on a conventional snowmobile, which measured distances in Figure 8 for the conventional snowmobile can meet the distances required by the claims).

4. Claims 52-65, 67-75, 111 and 112 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Admitted Prior Art, hereafter AAPA

5. AAPA all of Applicant's claimed invention (refer to 102(b) rejection of claims 26-47 and 50 above) including a tunnel (AAPA discloses a frame that is tunnel-like fitted over the drive track 120) and a back end of the seat extending behind a rearward-most portion of the frame (shown in Figure 1) and a support member extending upwardly and rearwardly from the frame (the portion of the frame shown in Figure 1 at the rear end which extends rearwardly & upwardly at an angle to provide support for the bottom rear part of the seat, thereby providing structural support for the seat behind the back end of the frame) and wherein the back end of the seat extends behind the frame by about 80 mm, 230 mm, 60 mm or 290 mm (Figures 1 and 8 describe various measured distances on a conventional snowmobile, which measured distances in Figure 8 for the conventional snowmobile can meet the distances required by the claims since the distance from the back end of the seat extending behind the frame is about the same as the distance I).

6. Claims 92-99 and 115 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Admitted Prior Art, hereafter AAPA.

7. AAPA discloses a snowmobile (110) comprising a frame (Figure 1) having a straddle-type seat (Figure 1), a front suspension being one of an A-arm suspension system and a trailing arm suspension system (Figure 1), a seat position defined by the seat (e.g., a spot on the seat), an engine disposed on the frame in front of the seat (Figure 1), a drive track (120) disposed below the frame and connected to the engine (Figure 1), a forward-most drive axle (144) disposed on the frame (Figure 1), two skis (116), a steering device (e.g., the entire steering unit of 110) having a steering position (a spot on the steering device, 132), a steering shaft (136), wherein the seat position is disposed about 565 mm behind the forward most drive axle and the steering position is disposed forward of the forward-most drive axle by about 65mm (see Figures 1 and Figure 8 describing various measured distances on a conventional snowmobile, which measured distances in Figure 8 for the conventional snowmobile can meet the distances required by the claims).

8. Claims 100-103 and 116 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Admitted Prior Art, hereafter AAPA.

9. AAPA discloses a snowmobile (110) comprising a frame (Figure 1) having a straddle-type seat (Figure 1), a front suspension being one of an A-arm suspension system and a trailing arm suspension system (Figure 1), two skis (116), a seat position defined by the seat (e.g., a spot on the seat), an engine disposed on the frame in front of the seat (Figure 1), a drive track (120) disposed below the frame and connected to the engine (Figure 1), a forward-most drive axle (144) disposed on the frame (Figure 1),

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wherein the seat position is disposed about 565 mm behind the forward most drive axle and the frame is between 1493 and 1913 mm long (see Figures 1 and Figure 8 describing various measured distances on a conventional snowmobile, which measured distances in Figure 8 for the conventional snowmobile can meet the distances required by the claims).

10. Claims 104-108 and 117 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Admitted Prior Art, hereafter AAPA.

11. AAPA discloses a snowmobile (110) comprising a frame (Figure 1) having a straddle-type seat (Figure 1), a front suspension being one of an A-arm suspension system and a trailing arm suspension system (Figure 1), a seat position defined by the seat (e.g., a spot on the seat), an engine disposed on the frame in front of the seat (Figure 1), a drive track (120) disposed below the frame and connected to the engine (Figure 1), a forward-most drive axle (144) disposed on the frame (Figure 1), two skis (116), a steering device (e.g., the entire steering unit of 110) having a steering position (a spot on the steering device, 132), a steering shaft (136), wherein the steering position is disposed forward of the forward-most drive axle and the frame is between about 1493 mm and 1913 mm long, wherein the steering position is disposed forward of the forward-most drive axle by about 65mm (see Figures 1 and Figure 8 describing various measured distances on a conventional snowmobile, which measured distances in Figure 8 for the conventional snowmobile can meet the distances required by the claims).

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Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-21, 24, 77-91, 109, 113 and 114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art, hereafter, AAPA, in view of Yoshioka et al. (5,474,146).

14. AAPA discloses a snowmobile (110) comprising a frame (Figure 1) having a straddle-type, singular seat (Figure 1), a front suspension being one of an A-arm suspension system and a trailing arm suspension system (Figure 1), first, second and third seat positions on a singular defined by the seat (e.g., a first spot and second spot on the seat), an engine (Figure 1), a drive track (120), a forward-most drive axle (144), two skis (116), and a steering device (e.g., the entire steering unit of 110) having a steering position (a spot on the steering device, 132) disposed forward of the forward-most drive track (see Figure 1), a steering shaft (136) wherein the first seat position is disposed about 565 mm behind the forward most drive axle, the second seat position is disposed behind the first seat position by about 340 or 290 mm, the third seat position is disposed behind the second seat position by about 310 or 345 mm, the steering position is disposed forward of the forward-most drive axle by about 65mm and the frame is between 1493 and 1913 mm long (see Figures 1 and Figure 8 describing various measured distances on a conventional snowmobile, which measured distances in

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Figure 8 for the conventional snowmobile can meet the distances required by the claims). AAPA does not specifically disclose that the angle of the steering shaft is 33° from the vertical. Yoshioka et al. discloses that the angle of the steering shaft of a snowmobile is 33° from the vertical (Figure 1 and column 18, lines 9-15) in order to construct a design for a steering shaft of a snowmobile incorporating a preferred angle for the steering shaft (inherent benefit -- which is that the angle is preferred so the design must necessarily incorporate that angle). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a steering shaft having an angle of 33° from the vertical on the AAPA snowmobile as taught by Yoshioka et al. in order to construct a preferred snowmobile design.

15. It is noted that since it has been held that discovering an optimum value of a result effective variable (for example an optimum angle of a steering shaft, various seat positions as measured from a forward-most drive axle or a distance between a steering position and a forward-most drive axle) involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

16. Claims 22, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Yoshioka et al. as applied to claim 1, 14, 26 and 40 (respectively) above, and further in view of Atherley (5,944,380).

17. The modified AAPA snowmobile discloses all of Applicants' claimed invention except for a second seat section that is removable with a cargo space behind the first seat section and beneath the second seat section. Atherley discloses a seat having first

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and second seat sections (106 and 104, respectively) with a cargo space (44) beneath the second seat section (see Figure 4, for example) wherein the second seat section is removable (see Figure 7) in order to provide the seat exchangeability. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a second removable seat section with a cargo space beneath it on the modified AAPA snowmobile as taught by Atherley in order to provide seat exchangeability.

18. Claims 48, 49, 51, 66 and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Atherley (5,944,380).

19. The AAPA snowmobile discloses all of Applicants' claimed invention except for a second seat section that is removable with a cargo space behind the first seat section and beneath the second seat section. Atherley discloses a seat having first and second seat sections (106 and 104, respectively) with a cargo space (44) beneath the second seat section (see Figure 4, for example) wherein the second seat section is removable (see Figure 7) in order to provide the seat exchangeability. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a second removable seat section with a cargo space beneath it on the AAPA snowmobile as taught by Atherley in order to provide seat exchangeability.

Response to Arguments

20. In view of the Appeal Brief filed on 5/28/03, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth above.

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Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Luby whose telephone number is (703) 305-0441.

The examiner can normally be reached on Monday-Friday, 9:30 a.m. to 6:00 p.m..

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

23. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Matt Luby
Examiner
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A handwritten signature in black ink, appearing to read 'Matt Luby', written in a cursive style.

M.L.
August 25, 2003